

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

NEW YORK STATE CORRECTIONAL,

Plaintiff,

-against-

RICARDO MCCRAY,

Defendant.

24-CV-7505 (LTS)

ORDER OF DISMISSAL

LAURA TAYLOR SWAIN, Chief United States District Judge:

Ricardo McCray, who is currently incarcerated at Sing Sing Correctional Facility, brings this action *pro se*. This action was transferred here from the United States District Court for the Central District of California. McCray incorrectly lists himself as defendant, and the Court directs the Clerk of Court to correct the caption to list McCray as the plaintiff. For the following reasons, the complaint is dismissed.

Plaintiff brought a substantially similar complaint making the same claims against the same defendant (“New York State Correctional”) in the United States District Court for the Northern District of Georgia, which transferred it here. That complaint is now pending in this court under docket number 24-CV-7308 (LTS).¹ Because this new complaint raises the same claims, no useful purpose would be served by the filing and litigation of this duplicate lawsuit. Therefore, this complaint is dismissed without prejudice to Plaintiff’s pending case under docket number 24-CV-7308 (LTS).

In light of the Court’s belief that Plaintiff may have submitted this duplicate complaint in error, the Court directs the Clerk of Court not to charge Plaintiff the \$350.00 filing fee for this

¹ As the district court noted in the transfer order, although the application is styled as a civil rights complaint, insofar as Plaintiff challenges his detention, his claims may sound in *habeas*.

action, and the Superintendent having custody of Plaintiff shall not deduct or encumber funds from Plaintiff's prison trust account for this lawsuit.

CONCLUSOIN

The Clerk of Court is directed to correct the caption to reflect that "New York State Correctional" is the defendant, and Ricardo McCray is the plaintiff, and to list on the docket the following address: Ricardo McCray #11-B-1607, Sing Sing Correctional Facility, 354 Hunter Street, Ossining, NY 10562.

The Court dismisses Plaintiff's complaint without prejudice as duplicative of the action pending under docket number 24-CV-7308 (LTS). The Court directs the Clerk of Court not to charge Plaintiff the \$350.00 filing fee for this action.

The Court certifies under 28 U.S.C. § 1915(a)(3) that any appeal from this order would not be taken in good faith and therefore *in forma pauperis* status is denied for the purpose of an appeal. *See Coppedge v. United States*, 369 U.S. 438, 444-45 (1962). Judgment shall enter.

SO ORDERED.

Dated: October 4, 2024
New York, New York

/s/ Laura Taylor Swain

LAURA TAYLOR SWAIN
Chief United States District Judge